

REMARKS

In accordance with the foregoing, the abstract has been amended to improve form and provide improved correlation with the drawings and claims. The title has been amended to clearly indicate the invention to which the claims are directed. Claims 4-13 have been withdrawn. Claims 1-3 are pending and under consideration. No new matter is presented in this Amendment.

TITLE

In the Office Action at page 3, item 5, the Examiner objected to the title of the invention and required a new title that "is clearly indicative of the invention to which the claims are directed." Accordingly, the title has been amended to read DISC DRIVE CARTRIDGE AND DISC DRIVE APPARATUS TO PREVENT SCRATCHING OF A DISC WHEN THE DISC IS LOADED INTO A DISC DRIVE. This amended title now clearly indicates the invention to which the claims are directed, specifically, a disc drive cartridge and disc drive apparatus which prevents a disc from being scratched by a motor hub when the disc is loaded into a disc drive. Thus, it is respectfully submitted that this objection should be withdrawn.

LINKING CLAIM 13

It is respectfully submitted that the Examiner is required to examine linking claim 13. MPEP 809 states: "The linking claims must be examined with, and thus are considered part of, the invention elected." Claim 13 clearly links together Invention I (a disc cartridge, claims 1-3) with Invention II (a disc drive apparatus). Claim 13 is directed towards an apparatus to read discs, and incorporates both a disc cartridge and a disc drive apparatus which loads a disc cartridge. In the Office Action at page 2, item 2, the Examiner states that: "With respect to newly added claim 13, contrary to applicant's assertion reads on non-elected Invention II." This statement is unclear because claim 13 reads on both Invention I and Invention II. Therefore, it is respectfully submitted that the Examiner is required to examine linking claim 13 along with elected claims 1-3 (Invention I).

RESTRICTION REQUIREMENT

Additionally, although the Examiner is correct in asserting that one aspect of the basis for

restriction is whether or not the inventions are distinct from each other (MPEP 806.05(h)), the Examiner still must explain why there would be a serious burden on the Examiner if restriction is not required. MPEP 808.02. Examples of reasons supporting why there would be a serious burden include: (A) a separate classification between the claimed inventions, (B) a separate status in the art when they are classifiable together, and (C) A different field of search. MPEP 808.02. Regarding example (A), Inventions I, II and III all fall within class 720. Regarding example (B), the Examiner has not shown a recognition of separate inventive effort by the inventors for the different Inventions. Regarding example (C), the Examiner has not shown that the manner in searching for one of the claimed Inventions is not likely to result in finding art pertinent to one of the other Inventions. The Examiner has not shown any reason why examining Inventions I, II and III together poses a serious burden. Therefore, it is respectfully submitted that, pursuant to MPEP 808.02, the restriction requirement should be withdrawn.

REJECTIONS UNDER 35 U.S.C. §102:

Claims 1-3 are rejected under 35 U.S.C. §102(e) as being anticipated by Choi et al. (U.S. Publication No. 2005/0097591).

It is respectfully submitted that Choi et al. is not available as a prior art reference under 35 U.S.C. §102(e). MPEP 2136.03 (I) states that the "applicant may be able to overcome the 35 U.S.C. §102(e) rejection by proving he or she is entitled to his or her own 35 U.S.C. §119 priority date which is earlier than the reference's U.S. filing date. In Re Hilmer, 359 F.2d 859, 149 USPQ 480 (CCPA 1966)." Choi et al. was filed in the U.S. on January 12, 2004. The instant application is entitled to a 35 U.S.C. §119 priority date of July 19, 2003, based on Korean Patent Application No. 2003-49546. Furthermore, pursuant to MPEP 201.15, a verified English translation of Korean Patent Application No. 2003-49546 is enclosed with this amendment supporting the 35 U.S.C. §119 priority date of July 19, 2003 of the instant application. Thus, it is respectfully submitted that that the rejection of claims 1-3 as being anticipated by Choi et al. under 35 U.S.C. §102(e) should be withdrawn.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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